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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,582	01/21/2004	Marshall A. Klingensmith	03-1569	3473

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INTELLECTUAL PROPERTY
ALCOA TECHNICAL CENTER, BUILDING C
100 TECHNICAL DRIVE
ALCOA CENTER, PA 15069-0001

EXAMINER

KASTLER, SCOTT R

ART UNIT	PAPER NUMBER
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1793

MAIL DATE	DELIVERY MODE
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10/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/761,582

Applicant(s)

KLINGENSMITH ET AL.

Examiner

Scott Kastler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/27/2007 has been entered.

Claim Rejections - 35 USC § 103

Claims 23-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nedic. Nedic teaches a fill tube assembly comprising a fill tube (52) in the form of a tubular member with a radially extending flange (58) at a mold engaging end, and a clamping assembly to maintain a leakproof seal between the mold and tube, where the clamping assembly is made to accommodate dimensional variations (see col. 2 lines 55-60 for example) and the clamping assembly includes a gasket (72) between the flange and mold, an annular load ring (10), an annular clamping plate (26) engaging the load ring for pressing the fill tube into contact with the mold, and a plurality of fasteners extending through openings (32) into apertures in the mold, thereby narrowing a pre-load gap between the plate and mold, thereby showing all aspects of the above claims except the provision that the flange (58) be of a tapered shape at least on its non-mold engaging face or the location of the gasket between the tapered flange of the second end and the casting mold. However, the flange shape and arrangements of Nedic operate in substantially the same manner (allowing the use of a clamping member to engage a fill tube with

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a casting mold) with substantially the same results (allowing dimensional variations during the clamping, see again col. 2 lines 55-60). Nedic also does not restrict the shape of the flange, as long as the clamping member can effectively engage the fill tube (the claims of Nedic allow for any desired flange configuration). It has been well settled that where no new or unexpected result is shown to arise therefrom, motivation to alter the shape or configuration of a component shown by the applied prior art would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV B. In the instant case, as long as the flange of the fill tube allows for dimensional variation, as required by Nedic, and since the claims of Nedic allow for various flange configurations, motivation to employ any desired equally useful flange configuration for the fill tube flange of Nedic would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. With respect to the gasket location, again the gasket (70) of Nedic operates in substantially the same manner for substantially the same purpose as the instantly claimed gasket (to prevent molten metal leakage) Nedic also recites that the gasket should be located between an upper portion of the fill tube and a sealing surface of the mold housing (see claim 10 of Nedic for example) which includes the instantly recited gasket location. It has been well settled that motivation to shift the location of a component (the gasket) to another, equally useful location on an apparatus would also have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 VI C. In the instant case, motivation to shift the location of the gasket of claim 10 of Nedic to the instantly recited location, which is also included in the range of acceptable gasket locations of Nedic, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

Response to Arguments

Applicant's arguments filed 8/27/2007 with respect to Nedic have been fully considered but they are not persuasive. Applicant's argument that Nedic does not teach the particularly recited flange configuration and that the recited flange configuration imparts new and/or unexpected results due to different stress concentrations resulting therefrom are not persuasive. It has been well settled that applicant's arguments or conclusory statements in the specification or a response cannot alone serve to show new and/or unexpected results, but must be supported by comparative evidence presented in proper affidavit or declarative form. See *In re Wood et al*, 199 USPQ 137.

Conclusion

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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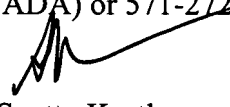
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott Kastler
Primary Examiner
Art Unit 1793

sk